

LOUISIANA PUBLIC SERVICE COMMISSION
MINUTES FROM NOVEMBER 12, 2008
OPEN SESSION

MINUTES OF NOVEMBER 12, 2008 OPEN SESSION OF THE LOUISIANA PUBLIC SERVICE COMMISSION HELD IN BATON ROUGE, LOUISIANA. PRESENT WERE CHAIRMAN JAY BLOSSMAN, VICE CHAIR LAMBERT BOISSIERE, COMMISSIONERS JIMMY FIELD, FOSTER CAMPBELL, AND PAT MANUEL. ALSO PRESENT IS LAWRENCE C. ST BLANC.

Open Session of November 12, 2008 convened at 9:36 A.M., adjourning at 1:37 P.M., Natchez Room, 602 N. 5th Street, 1st Floor, Baton Rouge, Louisiana, with the above-named members of the Commission and Secretary Lawrence C. St. Blanc.

Ex. 1 Announcements

Commissioner Campbell directed Staff to open a docket regarding the possibility of using natural gas in automobiles in Louisiana.

Commissioner Field thanked AllTel for furnishing cell phones during the election for reporting poll results.

Commissioner Campbell welcomed Senator McPherson, who is running for a seat on the LPSC.

Commissioner Boissiere stated that he and Staff Attorney Brandon Frey attended a St. James Parish Council meeting regarding concerns expressed by constituents about Charter Cable.

Ex. 2 **T-30673** - Cameron Rental & Tank, Inc. (Cameron, Louisiana), ex parte. In re: Common Carrier Certificate Number 6938-A (Corrected), Request for Declaratory Ruling Interpreting Authority Provided by Certificate AND FOR EXPEDITED TREATMENT.

Last month's Ex. 10

On motion of Commissioner Field, seconded by Commissioner Manuel, and unanimously adopted, the Commission voted to accept the Staff Recommendation and accept the Administrative Law Judge's recommendation only as to the definition of a "tank" and that the certificate does not impact Cameron Rental's ability to transport non-regulated commodities. The Commission further ordered to reject that portion of the ALJ Recommendation finding that Cameron Rental's authority allows it to transport only washout water. Instead, it is ordered that the Commission interpret Cameron Rental's authority to allow the transportation of liquid Exploration and Production ("E&P") waste generated as a result of the cleaning of tanks, including boat and barge tanks.

Ex. 3 **T-30708** - Arthur Perez Moving Professionals, LLC (New Orleans, Louisiana) ex parte. In re: Application to amend Tariff (household goods) for LPSC No. 6260-B by revising the existing tariff, and increasing various rates.

On motion of Commissioner Boissiere, seconded by Commissioner Blossman, and unanimously adopted, the Commission voted to accept the Staff Recommendation and grant the requested rate increase. It was further ordered that the Company file an approved tariff upon the issuance of the order.

Ex. 4 **R-30297** - Louisiana Public Service Commission, ex parte. In re: Discussion and possible vote on the exemption of motor carriers of waste from having to prove public convenience and necessity when applying for a common carrier certificate or contract carrier permit, but maintaining the requirement that said carriers register with the Commission and satisfy all rules, regulations and requirements of the Commission, including proof of fitness to operate. In addition, discussion on the burden of proof required in proving public convenience and necessity and Rule 33 of the Rules of Practice and Procedure of the Louisiana Public Service Commission, Special Rules Applicable to Contested Operating Authority Cases and possible vote on changes in the present burden of proof and Rule 33 and any other rule applicable to the trial of public

convenience and necessity cases.

Last month's Ex. 11

Commissioner Manuel made a motion to accept the Staff Recommendation, however that motion died for lack of a second.

On motion of Commissioner Field, seconded by Commissioner Blossman, and unanimously adopted, the Commission voted to reject the Staff Recommendation and keep the law the same. Staff was directed to examine the burden of proof required for PC&N in these types of cases and report back to the Commission as to the possibility of allowing more flexibility in this area.

Ex. 5 **U-30727** – CLECO Power, L.L.C. ex parte. In re: Application of Cleco Power L.L.C. for Certificate of Public Convenience and Necessity for: (I) Authorization for Cleco Power L.L.C. to Enter into a Proposed Power Purchase Agreement with Acadia Power Partners, LLC; (II) Authorization for Cleco Power L.L.C. to Flow-Through, in its Jurisdictional Rates, the Charges that it Pays Under the Power Purchase Agreement; and (III) Expedited Treatment.

On motion of Commissioner Blossman, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to take up this matter under Rule 51.

On motion of Commissioner Boissiere, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the Acadia PPA in conformity with the recommendations of Mr. Kahal.

Ex. 6 **U-30070** - LPSC, ex parte. In re: Investigation into the tap in fees charged by Northlake Environmental Engineering Services.

At the request of Commissioner Blossman.

PASSED

Ex. 7 **U-30590** - Greenleaves Utility Company, Inc. (Mandeville, Louisiana), ex parte. In re: Consolidated application for authority to (1) amend its Tariff to provide for an increase of two dollars for water service and also to (2) consolidate the terms of and rates for service for all customers under said tariff.

In re: Regarding clarification of the interim rate increase approved 6/5/08, at request of Commissioner Blossman.

PASSED

Ex. 8 **U-30568** - Coast Waterworks, Inc., ex parte. In re: Request for a storm recovery rider rate to repair damage incurred by Hurricane Katrina.

In re: Stipulated Agreement.

On motion of Commissioner Blossman, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the Stipulated Agreement as set forth in the settlement Term Sheet.

Ex. 9 **U-28513** – Energy America, ex parte. In re: Complaint against Entergy Louisiana, Inc. regarding the application of its Large Economic Expansion Service Rider Schedule 3 to its Large Industrial Power Service Rate Schedule LIPS-16.

Last month's Ex. 15

On motion of Commissioner Blossman, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to deny the motion for reconsideration.

On motion of Commissioner Field, seconded by Commissioner Blossman, and unanimously

adopted, the Commission voted to remand this proceeding in order to create a record in relation to the quantification of the rate that should have been charged to Orion. In particular, 1) A hearing shall be held at which time the parties shall be allowed to cross-examine witnesses and present quantifications of the appropriate rate and the total under-billings to Orion. 2) The ALJ shall compile a record for consideration at the December 2008 Business and Executive Session. The ALJ is allowed to modify post-hearing procedures to meet his deadline. 3) This Commission action specifically sets the December 2008 B&E as the effective date. Therefore, a filing of a motion for rehearing shall not suspend the order. 4) In order to adhere to the December 2008 B&E deadline, discovery shall be limited to 15 questions, inclusive of any sub-questions.

Ex. 10 **U-25116** - Louisiana Public Service Commission, ex parte. In re: Commission Audit of Fuel Adjustment Clause Filings of Entergy Louisiana, Inc. pursuant to Commission General Order dated November 6, 1997 (Paragraph E Page 17).

Last month's Ex. 16

Commissioner Field moved to reverse the ALJ's recommendation on several issues and affirmed on others. His motion was seconded by Commissioner Campbell.

Commissioner Boissiere offered a substitute motion to accept the ALJ recommendation, seconded by Commissioner Manuel, with Commissioner Blossman concurring, and Commissioners Field and Campbell dissenting.

Ex. 11 **R-30715** – Louisiana Public Service Commission, ex parte. In re: Adoption and implementation of the Federal Railroad Safety State Participation Program in accordance with LA R.S. 45:561, and 562, enacted in the 2008 Legislative Session.

In re: Discussion and Possible Vote on Proposed General Order. Last month's Ex. 18

Last month's Ex. 11

On motion of Commissioner Campbell, seconded by Commissioner Manuel, with Commissioners Field and Blossman concurring and Commissioner Boissiere temporarily absent, the Commission voted to accept the Staff Recommendation and adopt the second proposed general order as filed into the record on November 10, 2008.

Ex. 12 **S-30601** – ABC Telcom, Inc. d/b/a Homefone (Metairie, LA), ex parte. In re: Application for Designation as an Eligible Telecommunications Carrier.

On motion of Commissioner Field, seconded by Commissioner Blossman, and unanimously adopted, the Commission voted to accept the Staff Recommendation and grant the request for designation as an ETC.

Ex. 13 **S-30589** - BLC Management LLC of Tennessee d/b/a Angles Communication Solutions d/b/a Mexicall Communications, ex parte. In re: Application for certification as an eligible telecommunications carrier.

On motion of Commissioner Field, seconded by Commissioner Blossman, and unanimously adopted, the Commission voted to accept the Staff Recommendation and grant the request for designation as an ETC.

Ex. 14 **S-30637** - Image Access, Inc. d/b/a NewPhone, ex parte. In re: Application for certification as an Eligible Telecommunications Carrier for low-income universal service support.

On motion of Commissioner Field, seconded by Commissioner Manuel, and unanimously adopted, the Commission voted to accept the Staff Recommendation and grant the request for designation as an ETC.

Ex. 15 **S-30502** – dPi Teleconnect, LLC, ex parte. In re: Application for Designation as an Eligible

Telecommunications Carrier.

On motion of Commissioner Field, seconded by Commissioner Manuel, and unanimously adopted, the Commission voted to accept the Staff Recommendation and grant the request for designation as an ETC.

- Ex. 16 CLECO Power, L.L.C. and Southwestern Electric Power Company, Ex Parte. In re: Potential Amendments to Order No. U-29797 (Dolet Hills Fuel), decided at December 4, 2007 Business & Executive Session.

In re: Discussion and Possible Hiring of Kennedy and Associates to assist the Staff.

On motion of Commissioner Campbell, seconded by Commissioner Manuel, and unanimously adopted, the Commission voted to accept the Staff Recommendation and retain the consulting firm of Kennedy and Associates for a proposed budget of \$76,500 with expenses not to exceed 15% in order to assist Staff in this proceeding due to the lack of economic and auditing manpower and expertise of Commission staff at this time.

- Ex. 17 FERC Docket EL08-50-000, Louisiana Public Service Commission v. Entergy et al.

In re: Vote on proposed budget for outside counsel and consultants.

On motion of Commissioner Field, seconded by Commissioner Campbell, with Commissioners Blossman and Manuel concurring and Commissioner Boissiere temporarily absent, the Commission voted to accept the Staff Recommendation and approve the budget submitted by Stone Pigman as directed by the Commission at the October 15, 2008 Business and Executive Session, for \$6,478.75 in fees and expenses.

- Ex. 18 Discussion of Entergy System Agreement issues pertaining to Entergy Louisiana and Entergy Gulf States Louisiana and Comments by the Alliance for Affordable Energy.

The Commission afforded Karen Wimpleberg and Jessie George the opportunity to express the views of the Alliance for Affordable Energy relative to Entergy's System Agreement.

- Ex. 19 Discussion and possible vote on Legislative Auditor report.

Commissioner Campbell would like Staff to look into finding an outside auditor to review our auditing practices. Commissioner Field suggested that NARUC might be able to help find someone. Secretary St. Blanc stated that he will come up with suggestions for next month.

Commissioner Boissiere made a motion to completely prohibit any Commissioner from accepting food or beverages from any regulated utility or anyone affiliated with a regulated entity, with the exception of seminars and conferences. Commissioner Campbell stated he would like to include any Staff members as well.

Commissioner Manuel offered a substitute motion to prohibit any Commissioner or candidate for the Commission from receiving any campaign contributions from any person, or from any officer, director, agent, or employee of such person, if such person is: an LPSC regulated entity or a contractor of that entity; has or is seeking to obtain contractual or other business or financial relationships with the LPSC; or is seeking, for compensation, to influence the passage or defeat of a matter before the LPSC. This motion died for lack of a second.

On motion of Commissioner Field, seconded by Commissioner Manuel, with Commissioner Blossman concurring, and Commissioners Boissiere and Campbell dissenting, the Commission voted to continue to adhere to the current LPSC Rules and the "golden standard" as adopted by the Legislature.

- Ex. 20 1) Reports
2) Resolutions
3) Discussions - Commissioner Campbell requested that Staff present monthly reports at the B & E on oil and gas prices as well as the stock prices of the major LPSC regulated utilities such as

Swepeco, Cleco, Entergy, Atmos and Centerpoint.

Ex. 21 **U-29203** - Entergy Gulf States, Inc. and Entergy Louisiana, Inc., ex parte. In re: Joint Application of Entergy Gulf States, Inc. and Entergy Louisiana, Inc. for Interim and Permanent Recovery in Rates of Costs Related to Hurricanes Katrina and Rita.

In re: Approval of budget submitted by Crawford Lewis for post-bond sale monitoring.

At the request of Commissioner Blossman

On motion of Commissioner Boissiere, seconded by Commissioner Manuel, and unanimously adopted, the Commission voted to accept Staff Recommendation and retain the consulting firm of Crawford Lewis for fees not to exceed \$25,000, expenses in the amount of 15% of the fees.

Ex. 22 **U-30670** - Entergy Louisiana, LLC ex parte. In re: Application of Entergy Louisiana, LLC, for approval to replace Waterford 3 steam generators, reactor vessel closure head, and control element drive mechanisms, and for certain cost protection and cost recovery.

In re: Discussion and possible vote regarding Uncontested Stipulated Settlement.

At the request of Commissioner Blossman

On motion of Commissioner Manuel, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and adopt the Stipulated Settlement Agreement set forth in the Settlement Term Sheet.

Ex. 23 Southwest Louisiana Electric Membership Corporation, Ex Parte. In re: Request for approval from the Louisiana Public Service Commission to set up a regulatory asset related to all the costs of restoration after Hurricanes Gustav and Ike.

At the request of Commissioner Field.

On motion of Commissioner Field, seconded by Commissioner Manuel, and unanimously adopted, the Commission voted to approve SLEMCO's request for a deferral subject to the same conditions, as set forth in Special Order No. 62-2008, that the Commission imposed upon Entergy in connection with its deferral request as decided at the October 15, 2008 Business & Executive Session.

Ex. 24 **R-30703** - LPSC, ex parte. In re: Consideration of procedures whereby jurisdictional electric utilities must provide the Commission Staff with notice of unsolicited offers, as well as their response to, and analysis of, unsolicited offers.

At the request of Commissioner Blossman
Last month' Ex. 19

PASSED

MEETING ADJOURNED

The next Business and Executive Session will be held December 10, 2008 at 9:30 a.m. in Natchitoches, Louisiana.